

Appl. No. 10/656,689
Amdt. dated Jan. 20, 2006
Reply to Office Action of Aug. 23, 2005

REMARKS

Reconsideration of the rejection of claims 1, 3, and 5 - 8, as anticipated by Roth 4,078,330 is respectfully requested. Roth is directed to a tube which can retain a certain shape. The tube includes opposite threaded ends along the inside of the tube end. The Examiner has erred in the rejection of the claims on Roth. Roth does not include stoppers on the ends. The ends of the tube set forth by Roth include a pair of normally open contacts which are inserted into at least one end. The normally open contacts control an electrical source connected to the normally open contacts and to a light or a bell, etc. In the summary of the application Roth has set forth two opposite open ends. These opposite open ends include the normally open contacts which are not a stopper. Applicants would appreciate the Examiner setting forth how the normally open contacts close the end. Wires are connected to the contacts which require the wires to pass through the open end.

Applicants do not understand how the contacts, etc., act as a stopper. A metal ball is placed within the open end tube between the normally open contacts. They do not serve as a stopper at either end of the tube.

The Examiner has set forth tht the Roth tube includes a ball dispensed from the tube and used as a projectile. Actually, the ball traverses a part of the tube between the normally open contacts, at no time does the ball pass the normally open contacts. In order for the ball to be dispensed from the tube at least one of the combination of contacts must be removed. There is no discussion how

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the ball is used as a projectile. Applicants fail to find any place in Roth that refers to end stoppers. It is therefore believed that claims 1, 3, and 5 - 8, are not anticipated by Roth.

Reconsideration of the rejection of claims 1, 3, and 5 - 8 as anticipated by Im et al 4,965,135, is respectfully requested. Im is directed to a multi-layer plastic film. In order to follow a teaching of Im, there must be at least three different films. A first film to which a second film is in contact. The second film is brittle, therefore, a film, as film one is secured to the brittle film. In the specification Im sets forth the number of layers must be from about 25 to about 1000.

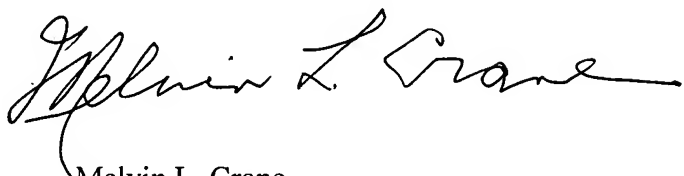
Applicants believe that a film which includes a plurality of alternating layers would not teach the claimed elongated tube which can be bent into different shapes. Im does not set forth that the tube is bent into different shapes as claimed by Applicants. Further, Im does not teach stoppers at the end. Applicants stoppers are a separate piece from the tube. Applicants tube is bent along its length. The Im tube does not teach separate stoppers but the ends of the tube are twisted in a circular direction to close the end of the tube. There is no teaching that the tube includes a delectable substance which requires removal of the stoppers to be forced from the end of the tube. In the Im teaching the tube itself forms the end closure. In the claims the tube includes separate stoppers in which at least one of the stoppers must be removed to allow the substance in the tube to be used by a user.

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Applicants hereby enclose a Petition for Two-Month Extension of Time, the Petition and check in the amount of \$225.00 are attached hereto.

Accordingly, it is requested that the rejection be reversed and a Notice of Allowance be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Melvin L. Crane". The signature is written in dark ink and is positioned above the printed name and registration number.

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January 20, 2006

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